

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF PENNSYLVANIA

JAMES COLES,

Plaintiff,

v.

05cv1476

**ELECTRONICALLY FILED**

WILLIAM MISTICK, ET AL.,

Defendants.

**Order of Court Denying Plaintiff's "Application for Review" (Doc. No. 95)**

This is a *pro se* prisoner civil rights case. Plaintiff alleges that he was assaulted by certain defendants on two separate occasions, which resulted in his needing surgery on his knee. Plaintiff further alleges that defendant "Nurse Judy" not only failed to treat his injuries, but also conspired with other defendants to minimize his injuries, thus resulting in him having to be taken to an outside hospital for treatment. Pending before this Court is plaintiff's "application for review" of the Memorandum and Order of United States Magistrate Judge Amy Reynolds Hay (doc. no. 94), wherein plaintiff's fourth request for counsel was denied under *Parham v. Johnson*, 126 F.3d 454, 457 (3d Cir. 1997).

After reviewing the Orders by Judge Hay setting forth the factors to be considered when determining whether plaintiff is entitled to counsel in a civil case (doc. nos. 64, 76 and 95), this Court finds that Judge Hay committed no clear error of law nor did she abuse her discretion in weighing the appropriate legal factors set forth in *Parham* against plaintiff. See *Cippollone v. Liggett Group, Inc.*, 785 F.2d 1108, 1113 (3d Cir. 1986) (Magistrate decision on a non-dispositive motion will be set aside only if the order is clearly erroneous or contrary to law).

Accordingly, plaintiff's "request" that this Court reverse the Order of Judge Hay and to appoint counsel to represent the plaintiff (doc. no. 95) is DENIED, and the decision of Judge Hay to deny plaintiff counsel is hereby AFFIRMED.

SO ORDERED this 5th day of May, 2008.

s/Arthur J. Schwab

Arthur J. Schwab

United States District Judge

cc: All counsel of record

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**PRO SE PLAINTIFF**